IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 541 OF 2006.

M/s.Singh Export Corporation. ... Appellant.
Versus.
The Municipal Corporation of
Greater Mumbai. ... Respondent.

Shri C.U.Singh, Senior Counsel with Shri Mahesh
Londhe i/by M/s.Sanjay Udeshi & Co.for the Appellant.

Shri J.J.Xavier for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 20th April, 2006.

P.C.:

1. Heard Shri Singh, learned Senior Counsel appearing for the Appellant and Shri Xavier appearing for the Respondent-Corporation. The affidavit of the Constituted Attorney of the Appellant is taken on record and marked "X" for identification. The Appellant desires to unconditionally withdraw the First Appeal. In view of the said affidavit, the Appeal is disposed by passing following order:

i) The Appeal is dismissed as withdrawn with no order as to costs.

ii) If an application is made by the Appellant to the concerned authority of the Respondent-Corporation for regularisation of the offending structures within a period of four weeks from

today, the said Application shall be decided by the concerned authority of the Respondent-Corporation within a period of 10 weeks from the date of making such application.

iii) The contention raised by the learned Counsel for the Appellant is that in view of the Development Control Regulations of 1991 and the Circular issued by the Government of Maharashtra under order dated 6th November 2001 regarding user of basements, the Appellant is entitled to lawfully use the basement for the purpose for which it is being used. If the Application for regularisation is made, the concerned authority of the Respondent-Corporation will decide the said application on its own merits without being influenced by the observations made by the learned trial Judge in the impugned Judgment as regards nature of the permissible user of the basement.

iv) If the Application for regularisation is made within the period of four weeks from today, the action of demolition will not be taken by the Respondent-Corporation for a period of 20 weeks from today. The Respondent-Corporation will communicate the decision on the Application for regularisation within a period of one week from

the date of the decision to the Appellant at the address mentioned in the cause title of the Appeal.

v) If Application for regularisation is not made within the stipulated period of four weeks, the Respondent is free to take action against the offending structures.

vi) The parties and the concerned authority of the Respondent-Corporation to act on an authenticated copy of this order.

Judge.